REMARKS

Claims 7-9, 16, and 37-43 are pending in this application, all of which stand rejected. Claims 21-36 have been cancelled without prejudice as a result of the present amendment. As a result of the October 20, 2004 Office Action, claims 7-9, 16, and 37-43 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Bryant[1] in view of U.S. Patent No. 6,606,657 (Zilberstein). For the reasons set forth below, applicants respectfully disagree with the grounds for rejection and request reconsideration of the October 20, 2004 Office Action.

Applicants would like to focus the Examiner's attention on two features that are variously recited in the claims:

1. Measuring the time between two requests

2. Recording a second client request, where the record is a function of a response to a first client request.

These features will be addressed in turn.

Measuring the Time Between Two Requests

Claims 9 and 38 call for recording or calculating the time between two client requests. With regard to this feature, the Examiner has cited Zilberstein, column 9, lines 3-6, 17-20, and 41-44. Neither the cited portion of Zilberstiein – nor any other portion that we have been able to identify – teaches the feature of measuring the time between two requests.

The cited portion of Zilberstein teaches determining "the actual time that a user spends at a given web site or page." The time that a user spends at a page is different from the time between two requests. As explained in column 9 of Zilberstein, the timer may be stopped if the window containing the web page loses focus, or if the user closes all windows, or if the "active" status of a web page changes. The measurements described in Zilberstein are concerned with measuring the actual amount of time that the user spends looking at a particular web page. This is why Zilberstein pauses the timer, for example, if the window in which the page is displayed loses focus.

[1] There are three Bryant patents listed in the Notice of References cited, and the Examiner has not stated which one is being applied. It appears, based on prior office actions, that the Examiner uses "Bryant" to refer to U.S. Patent No. 6,286,046, and applicants have assumed throughout this paper that Bryant refers to the 046 patent.

On the other hand, the invention recited in claims 9 and 38 measure the time between two requests. As explained in response to prior Office Actions, a purpose of taking this measurement is to record the tempo at which a real user would requests new pages while using the Internet, so that this tempo can later be duplicated by a transaction replayer in order to simulate how a real user would use the Internet. The amount of time between two requests (as recited in the above-mentioned claims) is different from the amount of time that a user actually spends looking at a web page (as described in Zilberstein). A user may request a particular URL and then wait one hour before requesting the next one. However, the user may minimize the browser window for a total of 55 minutes between those two requests. Under these circumstances, Zilberstein will record that the user looked at the page for 5 minutes, while claims 9 and 38 will record the fact that one hour elapsed between the two requests. Thus, the invention recited in the above-mentioned claims measures a quantity that Zilberstein does not measure.

It should be noted that, while claims 9 and 38 have been rejected over Bryant in view of Zilberstein, the Examiner's position with regard to the measurement of the time between two requests is based on a finding that Zilberstein teaches this feature. Inasmuch as the rejection relies on the assertion that this feature is taught in Zilberstein, this assertion is simply incorrect.

Additionally, claim 39 calls for inserting the measured duration of time in between two requests when a transaction is replayed. As noted above, a purpose of recording this time quantity is so that a transaction replayer can reply a transaction by waiting the same amount of time between two requests that the original user waited when the transaction was recorded. For the reasons set forth above, this feature is not taught in Zilberstein.

For these reasons, applicants request that the Examiner reconsider the rejection of claims 9, 38, and 39, and that the Examiner allow these claims.

Recording a second client request, where the record takes into account the relative location of hyperlinks on a page

Claims 8 and 37 call for a response that comprises a web page, and a record of a request that is a function of the relative location of hyperlinks on a web page. For example, claim 8 is dependent on claim 7. After claim 7 recites that a response to a first request is

received that a second request is made, and that a record of the second request is a function of the response, claim 8 further recites that "said response is a web page including a plurality of hyperlinks, and ... said function takes into account the relative location of one of said hyperlinks on said web page. As described on page 18 of the present application, a transaction recorder may record, for example, that the user followed the hyperlink that appears second in a series of three hyperlinks on a page rather than recording the actual URL that was requested as a result of following that hyperlink. Users tend to follow hyperlinks on the last page that they requested, rather than requesting a series of unrelated URLs. Therefore, recording the fact that the second hyperlink was followed may allow more realistic transaction replay, since the record can later instruct a transaction replayer to follow the second hyperlink on whatever page is received. Claims 8 and 37 recite a technique that includes this example.

The rejection of claims 8 and 37 is predicated on the Examiner's finding that this feature is found in Zilberstein. In particular, the Examiner cited the following teachings from Zilberstein, which are quoted below for reference in the argument that follows:

- Col. 2, ll. 59-63: "The amount of active time a user spends at each page is also determined. When the user jumps to another web page, the new page information and the determined duration of time spent at the previous site are transferred to a central server."

- Col. 8, ll. 35-45: "When a new URL is accessed by the user or a browser has been activated or re-activated (step 22), the new URL as well as certain user information is transmitted to the central server. (Step 24). The additional information can include a browser number (or other unique indication of the user's browser that is being tracked), the active time spent on the previous URL, whether this is the first visit of this user in the URL on the calendar day, and whether the access to the page was made by selecting site information provided by the present application program, or through another means (i.e., a link in the viewed page)."

- Col. 9, ll. 3-6: "When a new URL is accessed, one or more timers, such as a URL timer and an Active Page timer, are also started (step 26). The URL timer runs for as long as the user is accessing the particular URL."

- Col. 9, ll. 17-24: "In addition, the timers do not need to be discretely running clocks, but can also be implemented by recording appropriate start and end time-stamps and

then calculating the time difference. At step 30, the system continuously monitors whether an active status of the web page currently being viewed changes (e.g. whether the user switches to a new URL or opens a new browser window and views a different page)."

- Col. 9, ll. 35-40: "After step 32, the system determines whether a new URL has been accessed (step 34). If so, the process returns to step 24 above, and if not (e.g. when the user simply switches to a new page within the same web site), the process returns to step 30 to continue monitoring changes in the active status of the web page being viewed by the user."

- Col. 9, ll. 54-59: "According to the invention, URL and timing information from a large number of users is constantly being transmitted to the central server. This information is logged and analyzed to generate usage statistics across the universe of system users. Real-time information is maintained in memory, e.g., in hash tables."

First, it should be noted that the Examiner has not specifically addressed the feature of recording a request as a function of the relative location of hyperlinks in a previously-received web page. Instead, the Examiner asserts that it would be obvious to combine Bryant with Zilberstein "in order to record the time the client spent viewing the web page as a function of the first request in order to record the time the client spent viewing the web pages in a timely and efficient manner." (See Office Action, p. 6.) This statement is not on point to the features actually recited in claims 8 and 37, since claims 8 and 37 do not recite recording the time spent viewing web pages. Thus, the Examiner has not demonstrated that Bryant and Zilberstein can be combined to yield claims 8 and 37, and for this reason, the rejection of those claims should be withdrawn.

Second, aside from whether the combinability of Bryant and Zilberstein has been demonstrated, none of the above-quoted portions address the feature of recording a request as a function of the relative location of hyperlinks on a web page. The above-quoted portions are directed to timers, clocks, monitoring changes in active status, and hash tables. None of these address the feature of recording a request as a function of the relative location of hyperlinks in a web page.

Since the rejection of claims 8 and 37 is predicated on the assertion that Zilberstein teaches the feature of recording a request as a function of the relative location of hyperlinks

on a web page, and since the cited portions of Zilberstein clearly do not teach this feature, applicants respectfully request that the rejection of claims 8 and 37 be withdrawn.

Claims 7 and 16

Claims 7 and 16 have both been rejected over Bryant in view of Zilberstein under section 103. However, the Examiner's explanation as to the combinability of Bryant and Zilberstein with respect to these claims is in error. Therefore, applicants request that the Examiner either withdraw the rejection, or provide a revised analysis in a non-final office action so that applicants can have a meaningful opportunity to respond.

Specifically, as to claim 7, the Examiner's asserted rationale for combining Bryant with Zilberstein to yield the features in the claim is: "[I]t would have been obvious ... to modify Bryant by including a URL timer to determine the amount of time a user spends at each web page in a timely and efficient manner. Claim 7, however, does not mention a timer, or determining an amount of time that a user spends at a web page. Claim 7 does not mention "time" at all. Applicants thus submit that the Examiner has not demonstrated how Bryant and Zilberstein can be combined to produce claim 7.

As to claim 16, the Examiner asserts "it would have been obvious ... to modify Bryant by specifying the new URL accessed by a client selecting a link in the viewed web page as a function of the first request ...." As discussed in the July 16, 2004 interview, and in applicants' response to the April 21, 2004 Office Action, claim 16 calls for the record to be based on a function of responses, not a function of requests.[2] A response is not the same as a request. Thus, the Examiner has not explained how Bryant and Zilberstein can be combined to produce claim 16.

For these reasons, applicants respectfully submit that the Examiner has not demonstrated the obviousness of claims 7 and 16. Applicants request that the rejection of claims 7 and 16 be withdrawn, or, at a minimum, that the Examiner provide a further explanation in the form of a non-final Office Action, so that applicants can have a meaningful opportunity to respond to any new grounds of rejection.

[2] The discussion referred to herein related to claim 7, but the same point applies to claim 16.

Conclusion

Claims 7, 8, 9, 16, 37, 38, and 39 have been shown to be patentably distinct from the applied prior art. Moreover, claims 40-43 are each dependent on one of the above-listed claims, and thus are patentable over the applied prior art at least by reason of their dependency. Thus, all pending claims have been shown to be patentable, and applicants respectfully submit that this case is in condition for allowance.

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